

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LORI A. GILL-DRAYTON,

Plaintiff,

-v.-

NEW YORK STATE EDUCATION
DEPARTMENT; MOUNT VERNON CITY
SCHOOL DISTRICT; DR. CRYSTAL
WATERMAN; KEITH MCCALL,

Defendants.

23-CV-10259

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff, who is proceeding pro se, brings this Action under the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §§ 12112–12117, and the New York State Human Rights Law, N.Y. Exec. Law §§ 290–297, alleging that her employer discriminated against her based on her disability. By Order dated December 5, 2023, the Court granted Plaintiff’s request to proceed in forma pauperis (“IFP”), that is, without prepayment of fees.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the Complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the Complaint until the Court reviewed the Complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

To allow Plaintiff to effect service on Defendants New York State Education Department, Mount Vernon City School District, Dr. Crystal Waterman, and Keith McCall through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the Complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the Action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to issue summonses for New York State Education Department, Mount Vernon City School District, Dr. Crystal Waterman, and Keith McCall, complete the USM-285 forms with the addresses for Defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

Plaintiff may receive court documents by email by completing the attached form, Consent to Electronic Service.²

² If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: December 12, 2023
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', written over a horizontal line.

KENNETH M. KARAS
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. New York State Education Department
89 Washington Avenue
Albany, NY 12234
2. Mount Vernon City School District
165 North Columbus Avenue
Mount Vernon, NY 10553
3. Dr. Crystal Waterman
9 Union Lane
Mount Vernon, NY 10553
4. Keith McCall
9 Union Lane
Mount Vernon, NY 10553

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Please list all your pending and terminated cases to which you would like this consent to apply. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Date

Signature